UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,811	04/06/2001	Stephen Gold	1509-165	6456

7590	02/09/2004

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EXAMINER
TO, BAOQUOC N

ART UNIT	PAPER NUMBER
2172	

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action	09/826,811	GOLD ET AL.
	Examiner	**Art Unit**
	Baoquoc N To	2172

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) will not be entered because:

    (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: *Please see attachment* .

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☐ The a)☐ affidavit, b)☐ exhibit, or c)☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: *21-47*.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

**ALFORD KINDRED
PRIMARY EXAMINER**

The Examiner maintains the grounds of rejection of claims 21, 36 and 39 and the

amendment to claims 30, 32 and 40 raised new issues requires further search and

consideration.

The applicant argues "Saxon has no disclosure of limitations (2) comparing the

total file size data allocated for backup of the particular client computer with a

predetermined size limit; and (3) determining whether to backup the particular client files

or not depending on the comparison"

The examiner respectfully disagrees with the applicant argument because Saxon

teaches the concept of backing up file from multi-clients by determining the maximum

size threshold (col. 3, lines 1-18 and column 7, lines 19-50), which is the same concept

of backing up a particular client computer as present invention. The backing up multi-

client is the same as backing up for a particular client because the same concept is

utilizing.

The applicant also argues "the portion of Saxon relied on by the examiner to

make obvious backup from a client computer does not indicate a client computer is at all

involved in making a backup determination, and a particular a backup determination

based on total backup file data size of that client computer."

The examiner respectfully disagrees with the applicant argument. As Saxon

states backing up multi-clients computer system by determining the total size limit for

backing up the files (col. 3, lines 1-18). The columns 5, as mentioned in the previous

office action, utilizing by the examiner to point out that the Saxon system having the

client which equivalent to the particular client of the present invention.

Claims 22-24 are rejected under the same reason as claimed 21.

The applicant argues "the reliance by the Examiner on column 7, lines 46-60 of Saxon for the feature of the backup computer determining a file size limit representing a limit of total size file for each client computer, for which backup of files is permitted, is wrong."

The examiner respectfully disagrees with the applicant because the concept of backing up file wherein determination is made by comparing the threshold of file sizes to be backup (col. 7, lines 40-67). The conceptual of backing up file from multi-client or particular client is the same. If the conceptual of performed backing up multi-clients, so does the particular client computer by one ordinary skill in the art.

Please see the same argument for claims for claims 21 for all claims 32-35 and (col. 3, lines 1-17 and col. 7, lines 41-67).

The applicant argues "Saxon has no disclosure of any details of a client computer, no less client computer with a processor that receives a first quota limit from a external source, wherein the first quota limit describes an amount of data storage capacity the client computer is permitted to maintain for client files subject to backup process."

The examiner respectfully disagrees with the above argument because the sizes of the selected files in each identified save set are then added to give a new save set size (co. 3, lines 1-3). Save set is the quota limit according to the claimed invention.

Please see same argument for the claims 27-38.

Applicant argues "Saxon does not disclose two quota limits. In addition, Saxon does not disclose making the determination vis-à-vis a client computer. Further, as previously discuss, the quoted portion of Saxon does not disclose generating a warning signal"

The examiner respectfully disagrees with the above argument because in Saxon the total size is compared to the maximum size threshold to determine if the total size is less than or equal to the maximum ...if the threshold has not been reach and there is no "next most recent save set" at step 64. Then the method of the illustrated embodiment terminates at step 70 since the method cannot stay within the maximum size limits (col. 7, lines 41-67), are the multiple conditions or threshold regarding backing up the maximum size. It is known when the operation is failed to perform the backing up operation to notify the user. It is the same with generation of warning signal.

Please see the above arguments for claims 40-42.